

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

KENNETH W. HATLEN,

Plaintiff,

v.

GREG COX, et al.,

Defendants.

Case No. 3:14-cv-00317-MMG-WGC

ORDER

I. DISCUSSION

On August 14, 2014, U.S. Magistrate Judge William Cobb entered a screening order dismissing Count I of the complaint without prejudice with leave to amend. (Dkt. no. 5 at 8.) Judge Cobb granted Plaintiff thirty (30) days to file an amended complaint and then granted a subsequent extension of time to file the amended complaint. (Dkt. no. 5 at 8; dkt. no. 8.) Judge Cobb stated that if Plaintiff chose not to file an amended complaint, this action would proceed on Counts II and III only. (Dkt. no. 5 at 9.)

On September 4, 2014, Plaintiff filed a motion for more information or correction. (Dkt. no. 9.) Plaintiff states that he just learned that only a federal district judge can "screen" a civil rights complaint and that his civil rights complaint had been screened by a federal magistrate judge. (*Id.* at 1.) Plaintiff seeks a screening order by a federal district judge. (*Id.*)

Title 28 U.S.C. § 636(b)(1) provides:

(A) a judge may designate a magistrate judge to hear and determine any pretrial matter pending before the court, except a motion for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or quash an indictment or information made by the defendant, to suppress

1 evidence in a criminal case, to dismiss or to permit maintenance of a class
2 action, to dismiss for failure to state a claim upon which relief can be
3 granted, and to involuntarily dismiss an action. A judge of the court may
4 reconsider any pretrial matter under this subparagraph (A) where it has
5 been shown that the magistrate judge's order is clearly erroneous or
6 contrary to law.

7 (B) a judge may also designate a magistrate judge to conduct hearings,
8 including evidentiary hearings, and to submit to a judge of the court
9 proposed findings of fact and recommendations for the disposition, by a
10 judge of the court, of any motion excepted in subparagraph (A), of
11 applications for posttrial relief made by individuals convicted of criminal
12 offenses and of prisoner petitions challenging conditions of confinement.

13 28 U.S.C. § 636(b)(1)(A)-(B). Nevada Local Rules IB 1-3 and 1-4 are consistent with
14 this provision. See Nev. Loc. R. IB 1-3 (stating that a "magistrate judge may hear and
15 finally determine any pretrial matter not specifically enumerated as an exception in 28
16 U.S.C. § 636(b)(1)(A)").

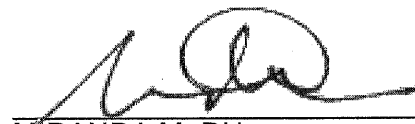
17 In this case, the magistrate judge entered an order dismissing Count I *without*
18 *prejudice* and *with leave to amend*, which is in the magistrate judge's purview under 28
19 U.S.C. § 636(b)(1). If Plaintiff fails to cure the deficiencies of Count I in his amended
20 complaint, the magistrate judge will prepare a report and recommendation for dismissal
21 of Count I with prejudice for the assigned district judge's review. Alternatively, the
22 district judge may issue the orders directly herself.

23 II. CONCLUSION

24 For the foregoing reasons, it is ordered that the motion for information or
25 correction (dkt. no. 9) is denied as moot.

26 It is further ordered that Plaintiff shall comply with the Court's August 14, 2014,
27 and September 2, 2014, orders.

28 DATED THIS 9th day of September 2014.


MIRANDA M. DU
UNITED STATES DISTRICT JUDGE